

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Boating and Ocean Recreation  
Honolulu, Hawaii 96813

June 13, 2008

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF: 08HD-16  
Hawaii

Authorize the issuance of a Request for Qualifications / Request for Proposals for lands at Waiakea, South Hilo, Island of Hawaii, Tax Map Key Nos: (3) 2-1-12: 41, and portions of 71 and 149

**REQUEST:**

Authorize the issuance of a Request for Qualifications / Request for Proposals ("RFQ/RFP") to select potential lessee of lands at Waiakea, South Hilo, Hawaii

**APPLICANT:**

Department of Land and Natural Resources, Land Division

**LEGAL REFERENCE:**

Sections 171-6, 16, 17, 18, 19, 35, 36, 41, 59, and other applicable sections of Chapter 171, Hawaii Revised Statutes, as amended.

**SUBJECT PROPERTY:**

Location: Portion of Government lands situated at Waiakea, South Hilo, Island of Hawaii, identified by TMK Nos: (3) 2-1-12: 41, and portions of 71 and 149, as shown on **Exhibit A**. (hereinafter referred to as the "Subject Property").

Area: 13.7 acres, more or less, subject to confirmation by the Department of Accounting and General Services, Survey Division.

Zoning: State Land Use Classification: Urban  
County of Hawaii Zoning: ML-20, Limited industrial

**TRUST LAND STATUS:**

Section 5(b) lands Hawaii Admission Act; Public Law 88-233  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

**CURRENT USE STATUS:**

The following is a summary of the Subject Property.

TMK	Area (Acres)	Current Use
2-1-12:41	1.1	Vacant
2-1-12:71 (por)	3.0	Vacant. Approx 3 acres to be withdrawn from EO 3718 to DBEDT. Remaining portion of Parcel 71 to remain under EO 3718 for Hilo Foreign Trade Zone.
2-1-12:149 (por)	9.6	Vacant. Remaining portion of 11.9-acre Parcel 149 includes public swimming pool operated by County of Hawaii

**STATUTORY AUTHORITY:**

HRS Section 171-59(a) provides that a lease of public land may be disposed of through negotiation upon a finding by the Board that the public interest demands it. The full text of HRS §171-59(a) is attached as **Exhibit B**.

The statute also provides the process for the Board's selection of the lessee. The process requires the Board to: (i) provide public notice of its intention to lease public land through negotiation; (ii) establish reasonable criteria for the selection of the lessee; (iii) determine the applicants who meet the criteria for selection; and (iv) select the lessee who submits the highest offer.

**BACKGROUND:**

DLNR's Land Division has been working jointly with the Department of Hawaiian Home Lands ("DHHL") to undertake a joint industrial/commercial development project, which is also known as the Kanoelehua Commercial Center and Industrial Park (the "KCCIP Project"). The total KCCIP Project area consists of approximately 25.4 acres and includes the 13.7-acre Subject Property and an adjacent 11.7-acre parcel owned by DHHL (TMK (3) 2-1-12: 70). See **Exhibit A**.

A portion of the Subject Property was previously the site of a Naval Air Station, which was cleared and officially closed in 1947. The KCCIP Project site has since remained vacant and underutilized. In 2007, DLNR and DHHL retained a planning firm to assess the development potential for these lands. It was determined the KCCIP Project site has excellent industrial and commercial development potential due to its proximity to Hilo's major commercial and industrial districts, as well as to Hilo's main airport and harbor. The site also has excellent frontage and access along Kanoelehua Avenue (one of Hilo's major highways) and access to existing utilities.

Based on the planning firm's analysis of various development alternatives, DLNR and DHHL believe a mix of commercial and/or industrial uses would maximize the value of their respective properties, and that the properties should be developed together as one master-planned project rather than as two independent projects.<sup>1</sup> The agencies also

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<sup>1</sup> The Subject Property is already zoned for industrial use under the County's zoning ordinance, and under an agreement with the County of Hawaii, DHHL may declare the zoning designation for its parcel.

agree that such a project should be developed under a leasehold arrangement with a qualified private entity since neither DLNR or DHHL possess the necessary development expertise or financial capacity for such an undertaking.

Based on the above, DLNR and DHHL propose to jointly seek a qualified private entity to plan, design, construct and manage the KCCIP Project using its own expertise and financial resources. The selected private entity would enter into ground leases with the two agencies for their respective properties.

Staff believes the RFQ/RFP process and negotiation of a lease with the selected applicant is preferable to the public auction process and best serves the interests of both the public and DLNR. The public auction process would entail a generic lease being offered and awarded to the highest bidder, which would provide DLNR with only limited control over what is actually developed. In contrast, the RFQ/RFP process will allow DLNR and the Board to evaluate the applicants' qualifications and development proposals and negotiate appropriate lease terms and conditions that are tailored to the selected applicant's specific development proposal.

It is contemplated that DHHL will be the lead agency in preparing and issuing the RFQ/RFP.

#### **RFP/RFQ PROCESS:**

DLNR and DHHL contemplate the RFQ/RFP process will be a two-step process, which is summarized below.

Step 1: Request for Qualifications (RFQ). The RFQ will request the submittal of an application from interested parties detailing their relevant real estate development and management experience, a conceptual development plan, preliminary development budget, and evidence of the applicant's financial capacity. An evaluation committee consisting of members selected by both DLNR and DHHL will review the applications and determine which applicants meet the eligibility criteria. The qualified applicants will be eligible to participate in the RFP portion of the process.<sup>2</sup>

Step 2: Request for Proposals (RFP). The RFP will require the submittal of a detailed development proposal for the Project from the qualified applicants, which proposal shall also include evidence of the applicant's financial capacity to complete the proposed project and a sealed rent proposal. The evaluation committee will review the proposals and select the applicant whose proposal best satisfies DLNR's and DHHL's development objectives and evaluation criteria. It is anticipated the primary evaluation criterion will be the amount of lease rent the applicant proposes to pay, although additional criteria may also be considered, such as the applicant's development timetable, any public infrastructure and facilities the project will provide, and the market demand for the proposed project.

With respect to the Subject Property, the selected applicant and its development proposal must be approved by the Board at a Board meeting open to the public.<sup>3</sup> If the

<sup>2</sup> DHHL and DLNR may, in their sole discretion, create a short list of the most qualified applicants, and invite only those applicants on the short-list to participate in Step 2 of the process.

<sup>3</sup> With respect to the DHHL lands, the selected applicant must be approved by the Hawaiian Homes Commission.

Board approves the selected applicant and proposal, the selected applicant and DLNR will enter into exclusive negotiations of a development agreement and/or ground lease.

An outline of the overall process is also provided as **Exhibit C**.

#### **DEVELOPMENT AGREEMENT:**

If approved by the Board, the selected applicant will undertake various predevelopment activities before a lease can be issued and construction can commence, e.g., due diligence, obtaining subdivision approval from the county, etc. Depending on the scope of the predevelopment activities and the projected timetable for such activities, DLNR may negotiate a development agreement with the selected applicant to set forth the predevelopment terms and conditions the selected applicant must successfully perform (including payment of development agreement fees) before it will be issued a ground lease. If the scope of predevelopment activities required for the selected applicant's proposal is not too extensive, a development agreement may not be necessary, in which case only a ground lease will be negotiated.

#### **NEW LEASE:**

The proposed lease will be subject to negotiation, but it is projected to include the following terms:

<u>Character of Use:</u>	Any use(s) allowed under the County zoning ordinance for the Subject Property
<u>Lease Term:</u>	Sixty-five (65) years
<u>Annual Rent:</u>	To be determined by the selected applicant's proposal, but to be not less than \$207,650 per year <sup>4</sup>
<u>Known Rent Period:</u>	Twenty-five (25) years, subject to step-ups in Years 11, 16, 21. <sup>5</sup>
<u>Rental Reopenings:</u>	Upon expiration of the 25-year known rent period, and every ten (10) years thereafter

#### **CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:**

An environmental assessment (EA), which described the potential impacts and proposed mitigation measures of a proposed 25.4-acre joint development project on the Project site, was prepared in accordance with the requirements of HRS Chapter 343.

The Final EA for the proposed joint development project was published in the OEQC's Environmental Notice on May 8, 2008 with a finding of no significant impact (FONSI).

<sup>4</sup> Fair market rent as of March 17, 2008 as determined by an independent appraisal dated April 10, 2008 and approved by the Chairperson on May 13, 2008.

<sup>5</sup> The rent increases shall be subject to negotiation but shall not be less than the following, which was determined by the above-mentioned independent appraisal: Years 11-15 shall be the previous rent multiplied by 1.2801; Years 16-20 shall be the previous rent multiplied by 1.1314; and years 21-25 shall be the previous rent multiplied by 1.1314.

**OTHER ISSUES:**


The Office of Hawaiian Affairs (OHA) submitted comments to the draft EA for the proposed Project, which offered conditional support for the Project but recommended a Cultural Impact Assessment be included in the EA. DHHL, the lead agency for the EA, informed OHA the EA included archeological and cultural studies that adequately covered the Project area, and in the unlikely event any human skeletal remains or significant cultural deposits are uncovered during construction, work will immediately cease and the State Historic Preservation Division will be contacted for appropriate mitigation.

**RECOMMENDATION:**

That the Board:

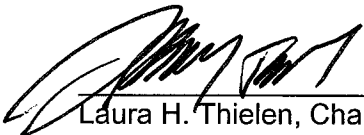
1. Find that the public interest demands that a lease for the subject property be disposed of through negotiation pursuant to Section 171-59(a) of the Hawaii Revised Statutes, as amended ("HRS").
2. Delegate the authority to the Chairperson to (i) issue a request for qualifications / request for proposals ("RFQ/RFP") for the selection of the prospective lessee for the Subject Property, which RFQ/RFP may be issued jointly with DHHL; (ii) establish the criteria for evaluating and selecting the prospective lessee; (iii) accept and evaluate the applications submitted by prospective lessees; and (iv) make a preliminary determination and recommendation to the Board of the best applicant.
3. Authorize the Chairperson to negotiate and approve any modifications to the RFQ/RFP process or requirements if in the best interest of the State and consistent with HRS Section 171-59.

Respectfully Submitted,



Keith Chun, Planning and Development Manager

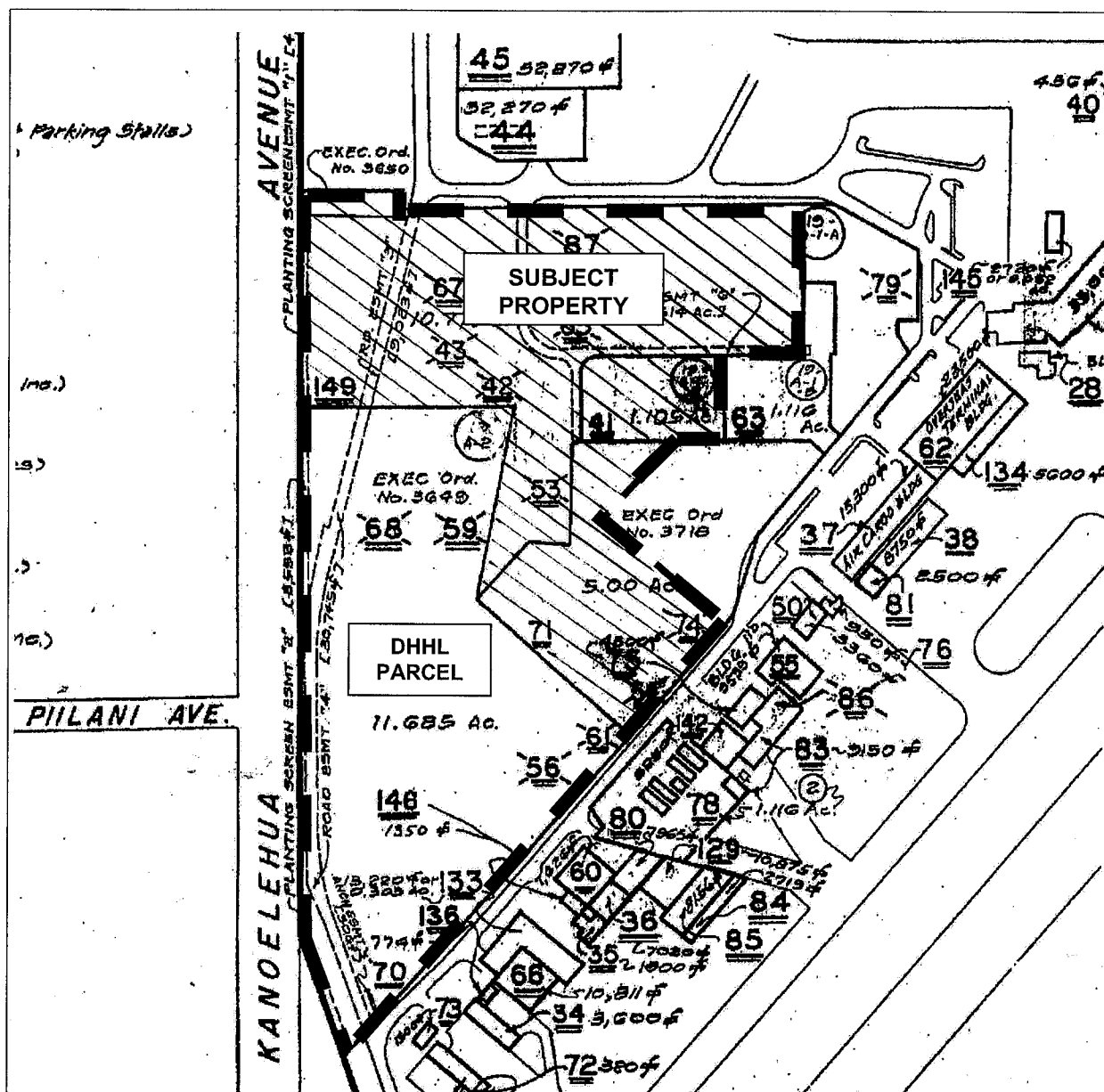
APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



## MAP OF KCCIP PROJECT SITE & SUBJECT PROPERTY



EXCERPT FROM TMK (3) 2-1-12 PLAT MAP

**LEGEND:**



KCCIP Project Boundary  
(approximate)

Subject Property (DLNR)

## **HRS §171-59(a)**

**§171-59 Disposition by negotiation.** (a) A lease of public land may be disposed of through negotiation upon a finding by the board of land and natural resources that the public interest demands it. Where the public land is being sought under this section by a sugar or pineapple company, and the company is the owner or operator of a mill or cannery, then, for the purposes of this section, the economic unit shall be that acreage of public land which when taken together with the lands already owned or controlled or available to the company, when cultivated is found by the board to be necessary for the company's optimum mill or cannery operation. In all other cases, public land to be sold under this section shall be an economic unit as provided in section 171-33(3).

After a determination is made to negotiate the disposition of a lease, the board shall:

- (1) Give public notice as in public auction, in accordance with the procedure set forth in section 171-16(a), of its intention to lease public land through negotiation setting forth the minimum conditions thereunder, the use for which the public land will be leased. Any person interested in securing the lease shall file an application with the board not later than forty-five days after the first publication of the notice;
- (2) Establish reasonable criteria for the selection of the lessee; provided that where the intended use of the land is agriculture, the department of agriculture shall establish the criteria;
- (3) Determine the applicants who meet the criteria for selection set by the board or the department of agriculture, as the case may be, and notify all applicants of its determination. Any applicant may examine the basis of the determination, which shall be in writing, to ascertain whether or not the conditions and criteria established by the board or the department of agriculture were followed; provided that if any applicant does not notify the board of the applicant's objections, and the grounds therefore, in writing, within twenty days of the receipt of the notice, the applicant shall be barred from proceeding to seek legal remedy for any alleged failure of the board to follow the conditions and criteria.

If only one applicant meets the criteria for selection of the lessee, the board may, after notice as provided in (3), above, dispose of the lease by negotiation.

If two or more applicants meet the criteria for the selection of the lessee, the board shall select the lessee who submits the highest offer contained in a sealed bid deposited with the board.

## OUTLINE OF PROPOSED PROCESS

1. Board of Land and Natural Resources ("Board") authorizes issuance of RFQ/RFP.
2. DLNR/DHHL publishes notice of, and issues joint RFQ/RFP.
3. Evaluation committee selected by DLNR and DHHL reviews applicants' statement of qualifications (SOQs) and determines the qualified applicants. The evaluation committee may recommend a short list of the most qualified applicants.
4. DLNR/DHHL notifies the qualified applicants (or the short list of the most qualified applicants) and invites them to participate in RFP phase by submitting detailed development proposals, including evidence of financial capacity to complete the applicant's proposed project and a sealed rent bid. (If only one qualified applicant, DLNR to commence negotiations of development agreement and/or ground lease with the applicant).
5. Evaluation committee evaluates detailed development proposals and selects applicant with proposal that best satisfies the evaluation criteria.
6. Selected applicant and its proposal presented to the Board for approval.\*
7. If approved, selected applicant and DLNR to enter into exclusive negotiations of a development agreement and/ or ground lease
8. Development agreement and/or proposed lease presented to the Board for approval\*
9. If approved by the Board, development agreement and/or ground lease executed
10. If development agreement entered, and selected applicant satisfies all terms/conditions of the development agreement, the Board and selected applicant execute ground lease.

\*Board meetings are open to the public and public testimony will be accepted.